

Tips on Communicating through Interpreters

Hiring the interpreter

It is cheaper and more reliable to hire directly than to go through an agency. To find an interpreter: King County Superior Court Interpreters Office can give referrals: (206) 296-9358
Directory of all court certified interpreters: www.courts.wa.gov/programs/interpret

The federal courts certify Spanish, Haitian Creole and Navajo interpreters only. Washington State Administrative Office of the Courts certifies for Spanish, Russian, Vietnamese, Cambodian, Cantonese, Korean, and Lao.

If the courts do not certify interpreters in the language that you need, or if no certified interpreter is available, look for other levels of certification. Your next best bet in Washington State is medical then social service. If an interpreter tells you that they are "certified" check at what level. Though translation (written) is a different art, it is a good sign if an interpreter is accredited by the American Translators Association. Their directory is at www.atanet.org. Some translators work in several languages so make sure the accreditation is for the appropriate language combination.

Any less common languages are not certified and never will be. If you must use a non-court certified interpreter inquire as to their education and language skills.

The following questions are suggested *before* contracting an uncertified interpreter:

1. When and how did you learn English and ___?
2. What is your level of formal schooling?
3. Do you have any training as an interpreter?
4. What experience do you have as an interpreter? (When and where have you interpreted?)
5. Please define a few English legal terms that will be used in this case, such as negligence, respondent, domestic violence, abuser, victim, etc. What are the translations for these terms? (you probably won't know the translation but can judge if they hum and haw before giving it)

It is helpful to ask ALL interpreters the following questions on the phone before hiring them:

1. "Do you know any of the parties or witnesses?" Some language communities are so small that it may be hard to find an interpreter who does not know the client, in which case you should ask, "Are you a potential witness in this case?"
2. "Have you ever interpreted before for either of the parties?" (You don't really want as an interpreter for a victim someone she saw interpret for the abuser last week in court, for example).
3. Do you think there might be any conflict of interest or reason why you should not interpret for this case? There may be a conflict within a language group that determines the choice of an interpreter; for example in the Seattle area there is a division between Pentecostal and Jewish Ukrainians. An Eritrean interpreter who speaks Tigrinia as a first language may be preferable to an Ethiopian

interpreter who speaks Tigrinia as well as Amharic. You can't possibly know all of these politics so simply ask the interpreter before hand.

Gender. In hiring know that the gender of the interpreter may make a difference in the comfort of the client. A woman interpreter is generally preferable for a victim of domestic violence.

Using a family member or friend, even an acquaintance, *should be avoided at all costs*, even if they happen to be professional interpreters. It inevitably skews what the client will say to you, how they say it, what will be interpreted and in what fashion. It also may have a negative impact on the relationship between the client and the person serving as the interpreter in the future. When the interpreter relationship is not formalized and the interpreter is not an agent of the attorney the interpreter could be subpoenaed and breach atty./client privilege. This is unlikely, but something to consider.

Book well ahead. Do not expect an interpreter to be available on a day's notice. Good interpreters are much in demand.

Payment. Establish the payment rate clearly and in advance. Ask the interpreter what their rates are. Rates vary widely depending upon language. It is always cheaper to go directly to an interpreter, since agencies keep up to 50% of their fees. Interpreters charge by the hour. Many have a 2 hour (or more) minimum charge and a 48 hour cancellation policy. Some interpreters also charge for travel time, generally at a lower rate. Some interpreters will charge mileage or parking.

Volunteers and reduced fees. If you are doing pro bono work yourself for a worthwhile cause some interpreters, when you describe the project, may consider reducing their fees or donating their services, but do not expect this. Expect the same ethics and standards from volunteers – do not use an unqualified interpreter simply because they are free! It can be far more expensive in the long run when they misinterpret information.

After hiring and before the appointment:

Give the interpreter background information and tell them what to expect. Establish the context and the nature of the visit for the interpreter. For example, "This will be my initial visit with Juana to prepare her self-petition. This is a process whereby she can ask for legal immigrant status on the basis of being married to an abusive citizen or resident who refuses to petition for her. She and I will be going over the history of her abuse, which includes things like rape and abuse of the children." If you are going to review documents send them to the interpreter before hand, or at least have the interpreter come early to review them. Alert the interpreter to any unusual vocabulary that may come up. Give an estimated end time for the visit. Understand that the interpreter may book another appointment after yours, so confirm time constraints on the day of the visit.

If they are not a certified court interpreter send them more background material to prepare with (such as the self-petition explanation handouts) and remind them to tell you if they don't understand terms you use or the terms aren't easily translated. Interpreters who are not court certified should also be sent a copy of the code of ethics for legal interpreters beforehand, copy attached.

The day of the appointment

Introduce yourself to *both* your client and the interpreter.

Confirm language. Ask the interpreter to speak briefly to the client and confirm that they can understand each other, and do not have problems due to accent or dialect. It is increasingly common in the U.S. to have Latin Americans who speak an indigenous language as their first language and Spanish as their second language, so if you have any suspicion that this might be the case ask your client, through the interpreter obviously, if they are fully comfortable speaking in Spanish.

Confidentiality. The first thing that you say to the client through the interpreter, after introductions and hellos, should be a brief reassurance that the conversation is entirely confidential and that the interpreter is also bound to uphold the confidentiality of the conversation.

Common mistakes to avoid

Speaking to the interpreter. Speak directly to the client, never use the third person "tell her that ...". Also tell your client to speak directly to you, and not to the interpreter. When you are speaking *look* at your client, and make sure that she too is looking at you when she speaks, rather than at the interpreter. If you do need to speak to the interpreter make it clear that's who you are speaking to, for example don't ask "Are you available Monday?" ask "Is the interpreter available on Monday?" Note that the interpreter should still be interpreting this question so that your client can understand what you are saying.

Role and confidentiality. Explain your role to the client, and at the same time review the role of interpreter. Make it clear that the interpreter is neutral, can't talk to them or befriend them, but that they can expect that the interpreter will interpret **everything** and will never repeat anything said outside of the room.

Speed and volume. Do not speak any more loudly than you normally would. You do not need to speak super slowly or pause between words. If you tend to speak very fast you might slow down a tad bit, but generally you should be able to speak in a normal voice and rhythm. Take care not to mumble. Avoid acronyms and abbreviations.

When to pause. If using simultaneous interpretation pause, at normal syntactical breaks, for the interpreter to catch up. If using consecutive interpretation don't break it up into gibbles, be sure not to break until a complete thought or phrase has been expressed, but be aware of the limits of the interpreter's memory. Professional interpreters will have good note taking and memory skills and be able to interpret much longer phrases. They should also be comfortable telling a speaker when to stop or continue. Be sure to not cut the fragments so short that they are meaningless, but not to make them so long that the interpreter may miss some of the content in the rendition. If your client says a particularly long statement, and you are working with an inexperienced interpreter who has not cut her off or taken good notes, know that some of the content may have been lost. Be aware that it can be hard to interrupt speakers in the middle of emotional testimony, or to ask them to repeat disturbing statements, and this is one of the many reasons it is crucial to have a qualified interpreter who can handle long statements.

Cultural concepts. If the client is expressing a culturally embedded concept which you do not understand do not expect the interpreter to be a cultural expert. They are not sociologists, and may well come from a very different background than the client (for example, a rich urban Mexican woman may have little in common with an indigenous rural Mexican woman). Interpreters come with their own world

views and who knows, their personal understanding of a cultural issue may not be accepted in their own cultural group. It is always best to ask cultural questions like this directly to the client, "How do you do this, what does this mean to you, etc.". Ideally if you are expressing a concept which the interpreter thinks may not transfer culturally she will let you know that, by saying something like, "The interpreter is not sure that the concept of a jury is being understood." I recommend the cultural profiles of major immigrant groups at www.xculture.org. They are written for doctors but have a lot of pertinent information about common misunderstandings. On the culture note please avoid the use of sports metaphors and idioms in general, such as out of the frying pan and in to the fire. These generally don't transfer well.

Bilingual clients and attorneys. Beware, if the client speaks some English they may think that they are understanding what you are saying in English when in fact they don't. Imagine if you were living in a foreign country where you spoke some basic Farsi, say, even if you had been there for years, would you really be able to conduct legal business in that language? If the attorney speaks some Farsi, say, it's great to use it for introductions, but unless the attorney has experience in and is comfortable with legal terminology in that language it is safest to use an interpreter.

Interruptions. Please do not speak before the interpreter has finished. The notes she takes are very cryptic and only serve to guide her memory for the next few moments. If you throw her off track she will probably not be able to reconstruct what your client said and that information will be lost, since we know that clients never repeat themselves exactly. Please wait until she has finished interpreting before responding, even if you think that the information she is interpreting from your client is irrelevant. There may be some nugget of information there that is useful, and it will help keep the interpreter centered and focused if you do not interrupt her. If your client is rambling a lot please wait until the interpreter is done and then ask your client to please give short direct answers to your questions only. If your client is interrupting the interpreter please give them the same instruction through the interpreter.

Register. Early on ask your client what their educational level is and what experience they have with the legal system so that you can keep the literacy level of your client in mind. If you are speaking in legalese in English the interpreter must render it in legalese in the target language. Some immigrant groups are more likely to have a much lower level of education. Don't assume this though, the best thing to do is simply ask them how many years of schooling they've had. If they say 3 that does not generally mean 3 years of higher education, it may well mean that they've only been through the third grade. If they say a very low number like that you might ask them if they are comfortable reading and writing in their own language. But don't automatically dumb it down just because they are an immigrant, they may in fact be a PhD.

Legal concepts. Many immigrants come from vastly different legal systems, and may not understand basic legal concepts here. I highly recommend an outstanding book that outlines the common misunderstandings about the criminal courts held by several major immigrant groups and what basic explanations are helpful for each group. The book is *Immigrants in Courts* by Joanne Moore, published by the University of Washington Press. The University of Washington bookstore will mail it to you in the U.S. with no shipping charge, they are at 1-800-335-READ, www.bookstore.washington.edu.

Breaks. The interpreter may be sitting still, but an extraordinary number of her cognitive wheels are spinning. Interpreter fatigue can have a great effect on the quality of interpretation services, so please offer frequent breaks, water, and do not schedule overly long appointments. In an ideal world interpreters work in teams and alternate every 20 minutes. Realistically you might provide short breaks every hour and not expect an interpreter to work for more than 2 and a half hours steadily.

Comments. Please don't ask the interpreter to comment on the content of the meeting or the case, as this is against our code of ethics. Instead when the appointment is over is complete, don't be afraid to provide constructive feedback to the interpreter and ask her if she has any tips for you. We can always improve!

Interpreter scenarios to watch out for and how to respond

If communication seems vague and unclear, and your client's answers don't correspond to your questions stop and inquire of the interpreter if in fact they are able to communicate well with the client. Perhaps the source communication from the client is also unclear, or they may be having some other difficulty that clouds communication, such as mental illness issues. It may be that the client speaks an indigenous language and speaks, for example, Spanish only as a second language but was embarrassed to admit this to the interpreter when initially asked. Or you may have an interpreter who is in over her head.

The most common complaint about unprofessional interpreters is that they seem to be abbreviating. Some languages do simply take much longer to speak. It takes 6 times longer to say something in Russian than in Chinese. However if there are several instances where a long statement is rendered with a very short interpretation stop and express your concern to the interpreter and reiterate that they interpret fully and exactly. Similarly if the interpretation seems much longer than your client's statement you might stop and make sure the interpreter is not adding anything.

There should not be any back and forth conversation between the interpreter and your client. If the interpreter needs to ask the client what a term they have used means, or couldn't make out what the client said and needs a repetition, the interpreter should tell you that this is what she is doing, with something like, "The interpreter needs to clarify a term used". If there is unexplained cross-talk stop and ask the interpreter to explain the discussion and remind her to please interpret everything completely.

Other scenarios to watch out for:

- Interpreter is coaching the client (uses body language to suggest answer)
- Mumbling client or interpreter
- Can't understand the interpreters English
- Interpreter using He says, she says
- Interpreter looks lost with terminology but doesn't say so

In general I suggest that you address these problems by briefly stating the problem, reminding them of the value, and requesting a clear solution.

Problem: Be specific, describe the behavior don't judge or label it, don't label the person

Value: In this scenario this is almost always clear communication, or direct, effective, etc.

Solution: Be specific, describe the behavior or give an example.

Example: Interpreter, I just heard my client give a long answer in Russian and you just rendered it in English with only 3 words. I want to be sure everything is communicated accurately and completely, please give me a full interpretation of absolutely everything that my client says. What exactly did my client just say?

One last reminder of my pet peeve: Interpretation is oral and Translation is written.

KING COUNTY SUPERIOR COURT INTERPRETER PAYMENT PROCEDURES

Payment for interpretation services are subject to the following guidelines. These guidelines can be exceeded only in extraordinary circumstances and only with written authorization of the court.

- (A) (1) The Court will provide interpreters for the deaf and hard of hearing in civil and criminal cases per Revised Code of Washington (RCW) Chapter 2.42.
- (2) In criminal matters, the Court will provide interpreters for non-English speaking parties in criminal cases per RCW Chapter 2.43.
- (3) In civil matters, for non-English speaking parties or witnesses, the Court will provide an interpreter at public expense if the party requesting interpreter services proves indigency through completion of an In Forma Pauperis (IFP) form and Financial Disclosure form. The Court will pay a maximum of one (1) hour service for an interpreter to assist in document preparation.
- (4) In Family Law matters, the Audit and Interpreter Committees have given Family Law Commissioners the authority to make findings of indigency and approve the appointment of interpreters at public expense in Family Law matters up to \$300 per case.
- (5) In dependency matters:
- (a) Deaf and Hard of Hearing: The court will pay for sign interpreters for both at-court services and out-of-court attorney preparation.
 - (b) Non-English speaking: The court will pay for out-of-court attorney preparation, but the State Department of Children and Family Services (DCFS) will pay for all at-court services.
 - (c) Speech impediments: The County and the State will each pay one-half of the cost for these services.

(6) Unified Family Court Planning Conferences

The court will pay for a maximum of one and one half (1 ½) hours service for an interpreter to assist each non-English speaking party at a UFC Planning Conference. At the Planning Conference, the Court will determine whether an

IFP form should be approved for payment of further interpretation services for the parties. In cases where the Department of Children and Family Services (DCFS) is a party to any action which is being heard at the planning conference, standard Interpreter Payment Procedures in dependency matters will apply.

- (B) (1) The court will pay for actual time spent (rounded to the nearest five (5) minute interval) in providing interpreter services including waiting time from the assigned time of arrival as specified by the Office of Interpreter Services until the completion of the services for that event. The interpreter will be paid for a minimum of one-hour service for the first appointment of the day. If service is for more than one hour, or there are subsequent appointments during the day, payment will be based on actual time incurred, rounded to the nearest five (5) minute interval. Interpreters will be paid a second one-hour minimum in cases where they have performed services in the morning and need to return for a second appointment in the afternoon. However, a subsequent appointment, any part of which occurs during the initial hour of service shall not be separately compensated and shall be included in the one-hour minimum compensation.
- (2) Interpreters requested to work at both the Downtown and Regional Justice Center sites on the same day will be compensated in the following manner:
- (a) Interpreters working at both sites during the morning or both sites during the afternoon shall be compensated a total of \$25.00 for travel time and mileage.
 - (b) Interpreters working at one site in the morning and the other site in the afternoon will not be compensated for travel time or mileage between sites.
- (3) Sign Language interpreters for deaf and hard of hearing jurors will be compensated as follows:
- (a) If the deaf or hard of hearing juror is selected, Superior Court will pay for all time during which interpretation services were rendered, or for four days, whichever is greater.
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(b) If the deaf or hard of hearing juror serves less than four days, the Court will pay for the interpreters' time secured for four days less the time for which the interpreters are able to find work. (The four days of interpretation services secured are for two days of mandatory jury duty and two succeeding days of possible trial time.) The interpreters will provide written verification to the Court that they were not able to secure any replacement work for any of the cancelled time.

(4) The Office of Interpreter Services has the authority to approve payment of interpreter services that may occur under 'Special Circumstances' not otherwise covered under these policies. Authorization for payment will be accompanied by either documentation and/or written explanation attached to the interpreter's voucher submitted for payment.

(C) Cancellation policy for matters other than trial:

In the event of cancellation¹ by the Court², the interpreter³ will only receive payment for reserved time for matters other than trial as follows:

(1) No payment shall be made if the interpreter is notified more than 24 hours prior to the start time of the requested service that interpretation services are no longer needed.

(2) If the interpreter has been reserved by the Superior Court Office of Interpreter Services for more than three (3) hours, then the interpreter shall be paid three (3) hours, or for the actual time spent waiting for notification of cancellation after the scheduled service delivery time, whichever is greater.

(3) If the interpreter is scheduled by the Superior Court Office of Interpreter Services for less than three (3) hours, the interpreter shall be paid for the time scheduled or the actual time waiting for notification of cancellation after the scheduled service delivery time, whichever is greater.

(4) In the event that an interpreter appears at the Family Law Calendar upon

Cancellation. Termination of reserved time without provision of services.

Court: means the King County Presiding Judge, the Criminal Presiding Judge, the Superior Court Judges, the Office of Interpreter Services, the King County Superior Court Administrator or their designated agents.

Interpreter: means any certified or qualified interpreter for the deaf, hard of hearing or non-English speaker as defined by RCW 2.43.

request of the Court's Office of Interpreter Services and the party fails to appear, the commissioner is authorized to approve the interpreter's appearance fee (up to a maximum of 1½ hours) even though no IFP form has been entered.

If the Court is able to utilize the interpreter's services for any other matter during this "canceled time", then the interpreter will be paid for at least the amount set forth above or for the alternate service, whichever is greater. For example, an interpreter is scheduled for 4 hours and the appointment is canceled when the interpreter shows up to work. The Court finds work for 2 hours of the interpreter's time. Under the provisions of this policy, the interpreter would receive 2 hours of pay for actual time worked plus an additional 1 hour of cancellation time.

(D) Reserved Time for a Trial for Interpreters for Litigants and Impaneled Jurors:

In the event of cancellation by the Court, the interpreter will only receive payment for service as follows:

- (1) No payment shall be made if the interpreter is notified more than 24 hours prior to the start time of the requested time that the interpreter's services are no longer needed.
- (2) If the interpreter has been reserved for more than three (3) hours for a trial by the Superior Court Office of Interpreter Services and the trial ends sooner than expected, the interpreter shall be paid for three (3) hours beyond the time of actual service.

(E) Payment process

- (1) An original Superior Court Interpreter Service Voucher form shall be used in all cases for payment, not to exceed \$35/hr for non-certified or \$45/hr for a Washington State Court certified interpreter.
 - (2) In civil cases, the Superior Court Interpreter Service Voucher form must include written notification that an order appointing an interpreter in forma pauperis has been approved.
 - (3) In cases exceeding the standard payment rates, a Superior Court Motion, Affidavit and Order Authorizing Service at Public Expense shall be approved by
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the Court prior to performance of interpretation services. The original Superior Court Interpreter Service Voucher form must be accompanied by a copy of the approved order before payment will be rendered. The Office of Interpreter Services may authorize payment exceeding the standard rates in 'Special Circumstances.' [See (B) (4)]

- (4) Vouchers must be submitted within thirty (30) days of date of interpreter service rendered or the voucher may not be honored and paid. If voucher is submitted and paid after the thirty days, a research fee of \$15.00 or 10% of the amount due, whichever is greater, will be deducted from the amount due and paid.

Westlaw

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West's RCWA 2.42.010

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West's Revised Code of Washington Annotated Currentness

Title 2. Courts of Record (Refs & Annos)

Chapter 2.42. Interpreters in Legal Proceedings (Refs & Annos)

→2.42.010. Legislative declaration--Intent

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

CREDIT(S)

[1989 c 358 § 12; 1983 c 222 § 1; 1973 c 22 § 1.]

HISTORICAL AND STATUTORY NOTES

Severability--1989 c 358: See note following RCW 2.43.010.

Laws 1983, ch. 222, § 1, following "impairment of hearing or speech" inserted ", or non-English-speaking cultural background" and preceding "language" inserted "English".

Laws 1989, ch. 358, § 12, in the first paragraph, following "speech," deleted "or non-English speaking cultural background".

LIBRARY REFERENCES

2004 Main Volume

Criminal Law 642.

Trial 22.

Westlaw Topic Nos. 110, 388.

C.J.S. Criminal Law § 1152.

C.J.S. Trial § 95.

RESEARCH REFERENCES

Treatises and Practice Aids

4A Wash. Prac. Series CRR 4.2, Pleas.

5A Wash. Prac. Series § 604.1, Purpose and History of Rule 604.

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West's Revised Code of Washington Annotated Currentness
Title 2. Courts of Record (Refs & Annos)
→ Chapter 2.42. Interpreters in Legal Proceedings (Refs & Annos)

2.42.010. Legislative declaration--Intent

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2.42.020. Repealed by Laws 1991, ch. 171, § 5

2.42.030. Repealed by Laws 1991, ch. 171, § 5

2.42.040. Repealed by Laws 1991, ch. 171, § 5

2.42.050. Oath

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment.

2.42.110. Definitions

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

- (1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.
- (2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

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(3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

2.42.120. Appointment, pay

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

2.42.130. Source of interpreters, qualifications

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of

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interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

2.42.140. Intermediary interpreter, when

If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

2.42.150. Waiver of right to interpreter

(1) The right to a qualified interpreter may not be waived except when:

(a) A hearing impaired person requests a waiver through the use of a qualified interpreter;

(b) The counsel, if any, of the hearing impaired person consents; and

(c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

2.42.160. Privileged communication

(1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

2.42.170. Fee

A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

2.42.180. Visual recording of testimony

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At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

2.42.200. Recodified as § 2.43.010 by Laws 1990, ch. 183, § 2

2.42.210. Recodified as § 2.43.020 by Laws 1990, ch. 183, § 2

2.42.220. Recodified as § 2.43.030 by Laws 1990, ch. 183, § 2

2.42.230. Recodified as § 2.43.040 by Laws 1990, ch. 183, § 2

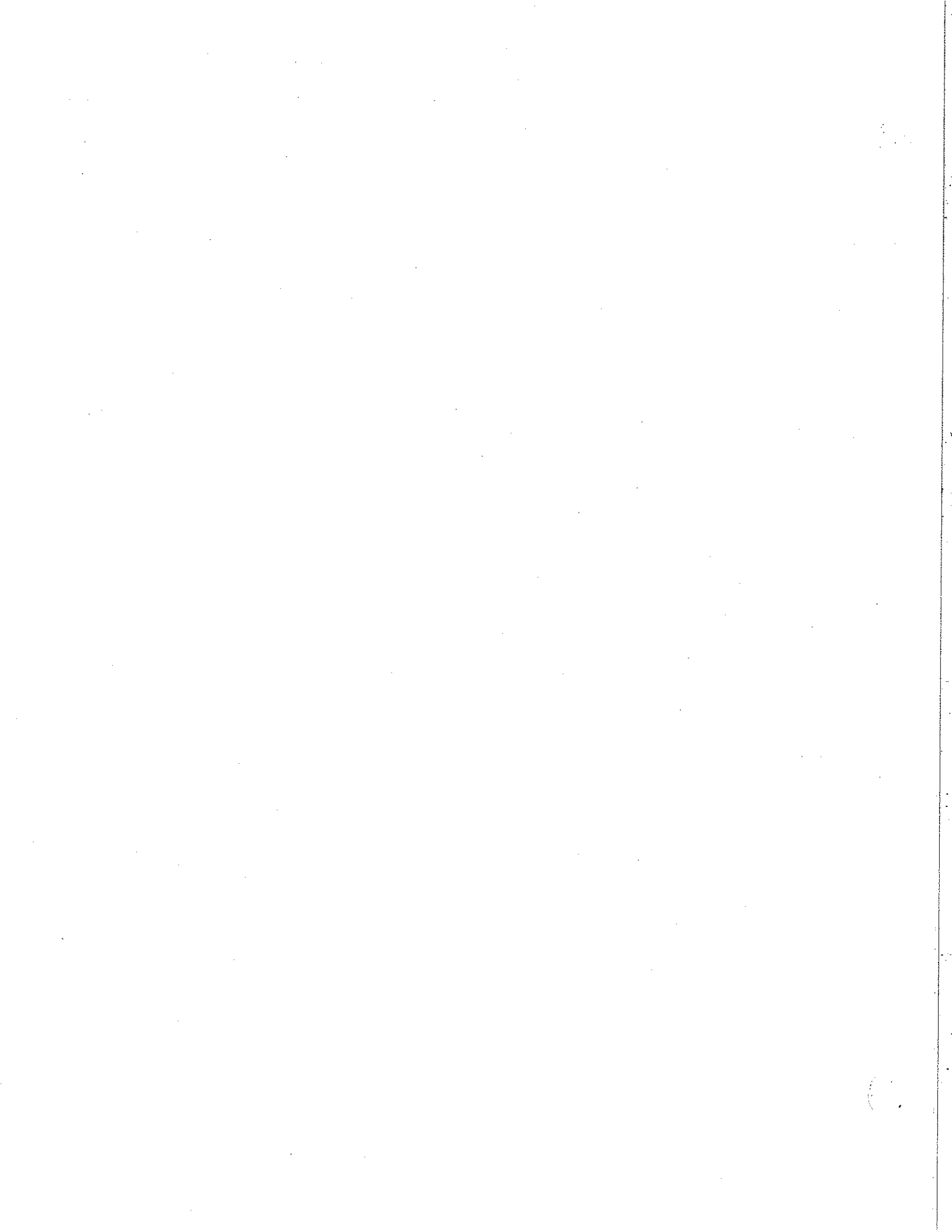
2.42.240. Recodified as § 2.43.050 by Laws 1990, ch. 183, § 2

2.42.250. Recodified as § 2.43.060 by Laws 1990, ch. 183, § 2

2.42.260. Recodified as § 2.43.070 by Laws 1990, ch. 183, § 2

2.42.270. Recodified as § 2.43.080 by Laws 1990, ch. 183, § 2

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West's Revised Code of Washington Annotated Currentness
Title 2. Courts of Record (Refs & Annos)
→ Chapter 2.43. Interpreters for Non-english-speaking Persons (Refs & Annos)

2.43.010. Legislative intent

It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in chapter 358, Laws of 1989 abridges the parties' rights or obligations under other statutes or court rules or other law.

2.43.020. Definitions

As used in this chapter:

- (1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.
- (2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.
- (3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.
- (4) "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.
- (5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

2.43.030. Appointment of interpreter

- (1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.
 - (a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

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(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the administrative office of the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the administrative office of the courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

2.43.040. Fees and expenses--Cost of providing interpreter

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

2.43.050. Oath

Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court

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or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

2.43.060. Waiver of right to interpreter

(1) The right to a qualified interpreter may not be waived except when:

(a) A non-English-speaking person requests a waiver; and

(b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

2.43.070. Testing, certification of interpreters

(1) Subject to the availability of funds, the administrative office of the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The administrative office of the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The administrative office of the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The administrative office of the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The administrative office of the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office.

(6) The administrative office of the courts may charge reasonable fees for testing, training, and certification.

2.43.080. Code of ethics

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule.

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